

REMARKS

The following remarks are submitted to be fully responsive to the non-final Official Action dated August 3, 2009. It is further submitted that this response is timely filed within the three-month shortened statutory period for response. Should any fees be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

Initially, it is noted that the Examiner has required the "Reference to Prior Pending Applications" to be appropriately updated with patent numbers as to applications that have issued. By this response, the specification is amended in this manner.

Claims 1-4 as have been previously withdrawn from consideration are also canceled by this response without prejudice or disclaimer of the subject matter contained therein. Applicants reserve the right to present these claims within a divisional application and with the benefit of the prohibition against double-patenting as set out within 35 U.S.C. 121.

Claim 8 is amended by this response to obviate the new rejection made by the Examiner under 35 U.S.C. 112, second paragraph. Specifically, claim 8 is amended in the manner as suggested by the Examiner to recite that first spaced portions of the membrane are tethered to the inner surface of the valve retaining ring at spaced fixation points and that other remaining portions of the membrane between such first spaced portions are expandable against the inner surface of the valve retaining ring. It is submitted that claim 8 is clear and definite, and withdrawal of the rejection under section 112, second paragraph, should be obviated and withdrawn.

Conclusion

Accordingly, it is submitted that claims 8, 9, 11 and 13 are currently in condition for allowance, a notice of which is earnestly solicited. If the Examiner finds any issue remaining after consideration of this response, the Examiner is invited to contact the undersigned, at the Examiner's convenience, in order to expedite any remaining prosecution.

Respectfully Submitted,

By:



Mark W. Binder, Reg. No. 32,642

Customer Number 33072

Phone: 651-275-9805

Facsimile: 651-351-2954

Dated: November 3, 2009